IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1627 OF 2005
IN
CRIMINAL APPEAL NO.261 OF 2005

Shri Akhil Bakshu ...Applicant.

V/s

The State of Maharashtra. ...Respondent.

Mr. U.B. Nighot with Mr. A.B. Kadam for the applicant.

Mr. A.S. Shitole, APP for the State.

CORAM: V.M.KANADE,J.
DATE: 23rd March 2005

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. Applicant is convicted by the Trial Court for an offence punishable under section 399 of the Indian Penal Code and sentenced to suffer R.I. for five years. Applicant has already undergone one and half years of sentence.

3. Prosecution case is that the Investigating Officer received an information that the accused are going to commit dacoity and, therefore, they waited for them on the Satara Highway and, thereafter, the accused were apprehended and certain weapons were found in the jeep in which they were travelling.

4. In my view, merely because the accused were found to be in possession of certain weapons, it cannot be said that they have committed an offence under section 399 of the I.P.C. when there is no other evidence on record to indicate that they had accordingly made preparation and had an intention to commit dacoity. The Investigation Officer has not recorded the information received by him in the Station Diary and the other accused have been released on bail by this Court. Applicant also, therefore, be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. He shall report to Lonand Police Station once in a month.

V.M. KANADE, J.